

Senate Bill 85

By: Senators Jeffares of the 17th, Hill of the 6th, Martin of the 9th, Hufstetler of the 52nd, Albers of the 56th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 3 of the Official Code of Georgia Annotated, relating to alcoholic beverages,
2 so as to provide for the limited sale of distilled spirits and malt beverages to the public by
3 manufacturers of such products; to provide for definitions; to provide for the promulgation
4 of rules and regulations by the state revenue commissioner; to provide for certain powers of
5 the state revenue commissioner; to provide for remittance of local excise taxes by distillers
6 and brewers; to revise certain cross-references for purposes of conformity; to clarify that
7 sales at retail by brewpubs for consumption off the premises are governed by the local
8 jurisdiction; to provide for an effective date; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 3 of the Official Code of Georgia Annotated, relating alcoholic beverages, is amended
13 by revising Code Section 3-4-1, relating to definitions relative to distilled spirits, as follows:

14 "3-4-1.

15 As used in this chapter, the term:

16 (1) 'Barrel' means 53 gallons.

17 ~~(1)~~(2) 'Denatured alcohol' or 'denatured distilled spirits' means alcohol, as defined in
18 Code Section 3-1-2, to which denaturants have been added in order to render the alcohol
19 unfit for beverage purposes or internal human medicinal use. As used in this paragraph,
20 the term 'denaturants' means materials authorized for use pursuant to Chapter 1 of Title
21 27 of the Code of Federal Regulations, as the same may now or hereafter be amended.

22 ~~(2)~~(3) 'Distiller' means a manufacturer.

23 ~~(3)~~(4) 'Fruit grower' means any person who grows peaches, apples, pears, grapes, or
24 other perishable fruits in this state and who manufactures distilled spirits from the
25 perishable fruits grown in this state."

26 **SECTION 2.**

27 Said title is further amended by revising subsections (e) and (f) of Code Section 3-4-24,
 28 relating to issuance to fruit growers of license to manufacture distilled spirits, storage and
 29 disposition, limitations upon manufacture and sale, issuance of manufacturer's or distiller's
 30 license in certain counties or municipalities, educational and promotional tours, and tasting
 31 room limitations for certain licensees, as follows:

32 ~~"(e) A manufacturer or distiller issued a license pursuant to this Code section may provide~~
 33 ~~educational and promotional tours upon the issuance of a permit by the commissioner~~
 34 ~~pursuant to Code Section 3-4-180.~~

35 ~~(f)~~(e) The commissioner may issue a license pursuant to this Code section to a fruit grower
 36 licensed as a farm winery authorizing such fruit grower to manufacture distilled spirits and
 37 fortified wines for sale exclusively through a licensed and designated wholesaler; provided,
 38 however, that the farm winery has no more than one tasting room located on its licensed
 39 premises. For purposes of this subsection, the term 'licensed premises' shall mean the
 40 premises for which the farm winery license is issued or property located contiguous to the
 41 farm winery and owned by the winery."

42 **SECTION 3.**

43 Said title is further amended by revising subsection (e) of Code Section 3-4-24.1, relating to
 44 distiller's license authorizing manufacture of distilled spirits from agricultural products other
 45 than perishable fruits, storage, and educational and promotional tours, as follows:

46 ~~"(e) A manufacturer or distiller issued a license pursuant to this Code section may provide~~
 47 ~~educational and promotional tours upon the issuance of a permit by the commissioner~~
 48 ~~pursuant to Code Section 3-4-180."~~

49 **SECTION 4.**

50 Said title is further amended by adding a new Code section to read as follows:

51 "3-4-24.2.

52 (a) A limited exception to the provisions of this title providing a three-tier system for the
 53 distribution and sale of distilled spirits shall exist to the extent that the license to
 54 manufacture distilled spirits in this state shall include the right to sell up to 500 barrels of
 55 distilled spirits per year produced at the distiller's licensed premises to individuals who are
 56 on such premises for:

57 (1) Consumption on the premises; and

58 (2) Consumption off the premises, provided that such sales for consumption off the
 59 premises shall not exceed a maximum of 2,250 milliliters of distilled spirits per consumer
 60 per day.

61 (b) A distiller may sell distilled spirits pursuant to subsection (a) of this Code section on
 62 all days and at all times that sales of distilled spirits by retailers and retail consumption
 63 dealers are lawful within the county or municipality in which the licensed premises of the
 64 distiller is located, including, but not limited to, Sundays.

65 (c) A distiller shall not sell any distilled spirits for consumption off the premises pursuant
 66 to subsection (a) of this Code section at a price less than the price at which a person
 67 licensed to sell distilled spirits by the package is permitted to sell distilled spirits pursuant
 68 to subsection (b) of Code Section 3-4-26.

69 (d) Any distiller engaging in sales of distilled spirits pursuant to subsection (a) of this
 70 Code section shall remit all state and local sales, use, and excise taxes to the proper tax
 71 collecting authority.

72 (e) The commissioner shall promulgate and enforce such rules and regulations as he or she
 73 may deem reasonable and necessary to effectuate the provisions of this Code section.

74 (f) Upon a violation by a distiller of any provision of this Code section or this title or any
 75 rule or regulation promulgated thereunder, the commissioner shall have the power to place
 76 conditions or limitations on such distiller's license and to modify or amend such conditions
 77 or limitations."

78 **SECTION 5.**

79 Said title is further amended by revising Code Section 3-4-180, relating to tastings of
 80 distilled spirits, definitions, general provisions, probated sales, and administration, as
 81 follows:

82 "3-4-180.

83 ~~(a) As used in this Code section, the term:~~

84 ~~(1) 'Distillery tour' means guided access to the manufacturing portion of the licensed~~
 85 ~~premises of a distiller.~~

86 ~~(2) 'Free souvenir' means a complimentary sealed container of distilled spirits.~~

87 ~~(3) 'Free tastings' means the provision of complimentary samples of distilled spirits to~~
 88 ~~the public for consumption on the premises of a distiller.~~

89 ~~(4) 'Sample' means one-half of one ounce of distilled spirits.~~

90 ~~(b)(1) A distiller licensed in this state may apply to the commissioner for an annual~~
 91 ~~permit authorizing such distiller to conduct educational and promotional distillery tours~~
 92 ~~on the licensed premises of the distiller, free of charge or for a fee, which may include:~~

93 ~~(A) Free souvenirs;~~

94 ~~(B) Free food; and~~

95 ~~(C) Free tastings.~~

96 ~~(2)(A) No distiller providing free souvenirs pursuant to this subsection shall provide,~~
 97 ~~directly or indirectly, more than one free souvenir to the same individual in one~~
 98 ~~calendar day. Each free souvenir shall be a single bottle of distilled spirits, containing~~
 99 ~~not more than 750 milliliters of distilled spirits manufactured by the distiller on the~~
 100 ~~licensed premises.~~

101 ~~(B) No distiller conducting free tastings under this Code section shall provide, directly~~
 102 ~~or indirectly, more than the three samples to a person in one calendar day. Free tastings~~
 103 ~~shall consist of distilled spirits manufactured by the distiller on the licensed premises.~~
 104 ~~Free tastings shall be held in a designated tasting area on the premises of the distiller,~~
 105 ~~and all open bottles containing distilled spirits shall be visible at all times.~~

106 ~~(3) Free souvenirs shall only be provided after the distillery tour and only to individuals~~
 107 ~~who have attended a distillery tour on the same calendar day. Free tastings and free food~~
 108 ~~may be provided before, during, and after a distillery tour. An individual shall be 21~~
 109 ~~years of age or older to receive a free souvenir or free tasting.~~

110 ~~(4) The distiller shall pay all excise and use taxes on any samples and all use taxes on~~
 111 ~~any free souvenirs provided pursuant to this subsection.~~

112 ~~(c) A distiller may provide to the public free of charge or for a fee merchandise such as~~
 113 ~~shirts, glasses, and other promotional items which do not contain alcoholic beverages.~~

114 ~~(d) If a distiller chooses to charge a fee for a distillery tour pursuant to subsection (b) of~~
 115 ~~this Code section, such distiller may charge varying fees for the distillery tours, provided~~
 116 ~~that such fees are charged prior to the beginning of such tour. The provision of distilled~~
 117 ~~spirits by a distiller as part of a distillery tour pursuant to this Code section shall not be~~
 118 ~~deemed a retail sale of alcoholic beverages.~~

119 ~~(e) No alcoholic beverages shall be sold on any licensed premises for which a permit has~~
 120 ~~been issued pursuant to this Code section.~~

121 ~~(f) The department shall promulgate and enforce such rules and regulations as it may deem~~
 122 ~~necessary to effectuate the provisions of this Code section. Reserved.~~

123 **SECTION 6.**

124 Said title is further amended by revising subsections (a) and (d) of Code Section 3-4-61,
 125 relating to payment of tax and report, as follows:

126 "(a) Except as may otherwise be authorized in this title, the state excise taxes imposed by
 127 this part shall be paid by the licensed wholesale dealer in distilled spirits; provided,
 128 however, that such taxes shall be imposed upon and shall be paid by the licensed distiller
 129 for distilled spirits served or sold by the distiller directly to the public pursuant to Code
 130 Section 3-4-24.2."

131 "(d) The ~~wholesaler~~ licensee shall remit to the commissioner the tax imposed by the state
 132 on the tenth day of the month following the calendar month in which the sales were made."

133 **SECTION 7.**

134 Said title is further amended by revising Code Section 3-5-1, relating to definitions relative
 135 to malt beverages, as follows:

136 "3-5-1.

137 As used in this chapter, the term:

138 (1) 'Barrel' means 31 gallons.

139 ~~(1)~~(2) 'Brewer' means a manufacturer of malt beverages.

140 ~~(2)~~(3) 'Case' means a box or receptacle containing not more than 288 ounces of malt
 141 beverages on the average."

142 **SECTION 8.**

143 Said title is further amended by adding a new Code section to read as follows:

144 "3-5-24.1.

145 (a) A limited exception to the provisions of this title providing a three-tier system for the
 146 distribution and sale of malt beverages shall exist to the extent that the license to
 147 manufacture malt beverages in this state shall include the right to sell up to 3,000 barrels
 148 of malt beverages per year produced at the brewer's licensed premises to individuals who
 149 are on such premises for:

150 (1) Consumption on the premises; and

151 (2) Consumption off the premises, provided that such sales for consumption off the
 152 premises shall not exceed a maximum of 288 ounces of malt beverages per consumer per
 153 day.

154 (b) A brewer may sell malt beverages pursuant to subsection (a) of this Code section on
 155 all days and at all times that sales of malt beverages by retailers are lawful within the
 156 county or municipality in which the licensed premises of the brewer is located, including,
 157 but not limited to, Sundays.

158 (c) Any brewer engaging in sales of malt beverages pursuant to subsection (a) of this Code
 159 section shall remit all state and local sales, use, and excise taxes to the proper tax collecting
 160 authority.

161 (d) The commissioner shall promulgate and enforce such rules and regulations as he or she
 162 may deem reasonable and necessary to effectuate the provisions of this Code section.

163 (e) Upon a violation by a brewer of any provision of this Code section or this title or any
 164 rule or regulation promulgated thereunder, the commissioner shall have the power to place

165 conditions or limitations on such brewer's license and to modify or amend such conditions
 166 or limitations."

167 **SECTION 9.**

168 Said title is further amended by revising paragraph (4) of Code Section 3-5-36, relating to
 169 the brewpub exception to three-tier distribution system, as follows:

170 "~~(4) A brewpub license does not authorize the holder of such license to sell alcoholic~~
 171 ~~beverages shall not be prohibited from selling wine or malt beverages~~ by the package for
 172 consumption off the premises where so permitted by resolution or ordinance of the
 173 county or municipality;"

174 **SECTION 10.**

175 Said title is further amended by revising Code Section 3-5-38, relating to permits for free
 176 tasting of malt beverages during educational and promotional brewery tours, merchandising,
 177 fees for tours, selling of beverages, and administration, as follows:

178 "3-5-38.

179 ~~(a) As used in this Code section, the term:~~

180 ~~(1) 'Brewery tour' means guided access to the manufacturing portion of the licensed~~
 181 ~~premises of a brewer.~~

182 ~~(2) 'Free souvenir' means a complimentary sealed container or containers of malt~~
 183 ~~beverages with a total liquid capacity that does not exceed 72 ounces.~~

184 ~~(3) 'Free tastings' means the provision of complimentary samples of malt beverages to~~
 185 ~~the public for consumption on the premises of a brewer.~~

186 ~~(4) 'Sample' means a quantity of malt beverages manufactured by the brewer.~~

187 ~~(b)(1) A brewer licensed in this state may apply to the commissioner for an annual~~
 188 ~~permit authorizing such brewer to conduct educational and promotional brewery tours on~~
 189 ~~the licensed premises of the brewer, free of charge or for a fee, which may include:~~

190 ~~(A) Free souvenirs;~~

191 ~~(B) Free food; and~~

192 ~~(C) Free tastings on the licensed premises of the brewery of malt beverages~~
 193 ~~manufactured by such brewer.~~

194 ~~(2) No brewer providing free souvenirs pursuant to this subsection shall provide, directly~~
 195 ~~or indirectly, more than one free souvenir to the same individual in one calendar day.~~
 196 ~~Each free souvenir shall consist of malt beverages manufactured by the brewer on the~~
 197 ~~licensed premises.~~

198 ~~(3) No brewer conducting free tastings pursuant to this subsection shall provide, directly~~
 199 ~~or indirectly, to the same individual in one calendar day more than 36 ounces of malt~~

200 ~~beverages for consumption on the premises. Free tastings shall be held in a designated~~
 201 ~~tasting area on the licensed premises of the brewer and all open bottles containing malt~~
 202 ~~beverages shall be visible at all times.~~

203 ~~(4) Free souvenirs shall only be provided after the brewery tour and only to individuals~~
 204 ~~who have attended a brewery tour on the same calendar day. Free tastings and free food~~
 205 ~~may be provided before, during, and after a brewery tour. An individual shall be 21 years~~
 206 ~~of age or older to receive a free souvenir or free tasting.~~

207 ~~(5) The brewer shall pay all excise and use taxes on any samples and all use taxes on any~~
 208 ~~free souvenirs provided pursuant to this subsection.~~

209 ~~(c) A brewer may provide to the public free of charge or for a fee merchandise such as~~
 210 ~~shirts, glasses, and other promotional items which do not contain alcoholic beverages.~~

211 ~~(d) If a brewer chooses to charge a fee for a brewery tour pursuant to subsection (b) of this~~
 212 ~~Code section, such brewer may charge varying fees for the brewery tours, provided that~~
 213 ~~such fees are charged prior to the beginning of such tour. The provision of malt beverages~~
 214 ~~by a brewer as part of a brewery tour pursuant to this Code section shall not be deemed a~~
 215 ~~retail sale of alcoholic beverages.~~

216 ~~(e) No alcoholic beverages shall be sold on any licensed premises for which a permit has~~
 217 ~~been issued pursuant to this Code section.~~

218 ~~(f) The department shall promulgate and enforce such rules and regulations as it may deem~~
 219 ~~necessary to effectuate the provisions of this Code section. Reserved.~~

220 **SECTION 11.**

221 Said title is further amended by revising Code Section 3-5-81, relating to payment of tax by
 222 wholesale dealers generally, time of payment, reports by dealers as to quantities of beverages
 223 sold, as follows:

224 "3-5-81.

225 (a) The excise taxes provided for in this part shall be imposed upon and shall be paid by
 226 the licensed wholesale dealer in malt beverages; provided, however, that such taxes shall
 227 be imposed upon and shall be paid by the licensed brewer for malt beverages served or sold
 228 by the brewer directly to the public pursuant to Code Section 3-5-24.1.

229 (b) The taxes shall be paid on or before the tenth day of the month following the calendar
 230 month in which the beverages are sold or disposed of within the particular municipality or
 231 county ~~by the wholesale dealer.~~

232 (c) Each licensee responsible for the payment of the excise tax shall file a report itemizing
 233 for the preceding calendar month the exact quantities of malt beverages, by size and type
 234 of container, sold during the month within each municipality or county. The licensee shall

235 file the report with each municipality or county wherein the beverages are sold by the
236 licensee.
237 (d) The ~~wholesaler~~ licensee shall remit to the municipality or county on the tenth day of
238 the month following the calendar month in which the sales were made the tax imposed by
239 the municipality or county."

240 **SECTION 12.**

241 This Act shall become effective on September 1, 2017.

242 **SECTION 13.**

243 All laws and parts of laws in conflict with this Act are repealed.